

**COMPLAINT INVESTIGATION SUMMARY**

**COMPLAINT NUMBER:** 1737.01  
**COMPLAINT INVESTIGATOR:** Sandie Scudder  
**DATE OF COMPLAINT:** April 26, 2001  
**DATE OF REPORT:** May 25, 2001  
**REQUEST FOR RECONSIDERATION:** no  
**DATE OF CLOSURE:** August 29, 2001

**COMPLAINT ISSUES:**

Whether the New Castle Community School Corporation and the New Castle Area Programs violated:

-511 IAC 7-25-7 with regard to the school's alleged failure to conduct an additional evaluation, specifically an augmentative communication assessment, within sixty instructional days from the date of the parent's written consent.

-511 IAC 7-23-1(d) and (f) with regard to the school's alleged failure to permit the parent to inspect the student's educational record.

-28 CFR 35.150(a) with regard to the school's alleged failure to provide the student with access and entry into the building upon the student's arrival in the mornings.

**FINDINGS OF FACT:**

1. The Student is 7 years old, is in kindergarten, and is eligible for special education and related services as a student with multiple disabilities and a communication disorder.
2. On the May 19, 2000, IEP, one of the goals is: "Increase communication skills through the use of an augmentative communication system." No reference is made to the Student receiving an augmentative communication assessment.
3. The Complainant provided written consent for an augmentative communication assessment on January 12, 2001. The written report of the evaluation was completed on March 15, 2001. Sixty instructional days from the January 12, 2001, was April 18, 2001.
4. The special education secretary ("Secretary") contacted appropriate school personnel on March 30, 2001, for possible dates to schedule a case conference to discuss the augmentative communication assessment. Spring break was from April 2 to April 6, 2001. On April 9, 2001, the school notified the Secretary that the school staff could attend a case conference on April 19, 2001. On April 9, 2001, the Secretary contacted the Complainant who agreed to a CCC meeting on April 19, 2001. Later on April 9, 2001, the Complainant's husband informed the Secretary that they planned to contact their social worker and would notify the Secretary by April 10, 2001.
5. The Complainant informed the Secretary on April 12, 2001, to schedule the CCC meeting with the social worker and that time would be agreeable with the complainant. On April 16, 2001, the Secretary contacted the Complainant and was informed that the social worker was on vacation so

the CCC meeting could not be held on April 19, 2001. On April 24, 2001, the Complainant and the school agreed to convene the CCC meeting on April 26, 2001, providing the social worker could attend on that date. The social worker notified the Secretary on April 24, 2001, that she could not meet on April 26, 2001, but a parent advocate would attend the CCC meeting. When the advocate was contacted, she could not attend a conference on April 26, 2001. The April 26, 2001, CCC meeting was canceled.

6. On May 1, 2001, the Director sent the Complainant a letter regarding the scheduling of a CCC meeting. On May 3, 2001, the Complainant gave the Secretary three dates for scheduling a conference: May 8, 11, and 14, 2001. On May 3, 2001, the school staff agreed to May 8, 2001, for convening the CCC meeting. On May 7, 2001, the Complainant stated that May 8, 2001, was no longer convenient. The complainant stated May 11, 2001, was the best date for the advocate, but the School staff were not available on that date.
7. On May 7, 2001, the Secretary called the School to schedule a CCC meeting on May 14, 2001, but the Principal could not attend. On May 11, 2001, the Secretary contacted the Complainant. The Complainant was to return the phone call. On May 16, 2001, having not heard from the complainant, the Secretary contacted the Complainant and left a message concerning the date for the CCC meeting. The complainant did not return the call. The Director stated that as of May 21, 2001, the CCC meeting had not been scheduled.
8. The Principal states that the Complainant's first request for the Student's daily log, which is maintained by the teacher assistant, was during the second week of April, 2001. The Complainant states she asked for the Student's log on three different occasions with the last request on April 24, 2001. The complainant sent a letter to the principal requesting the Student's daily log on April 25, 2001. The Principal gave a copy of the Student's log to the Complainant on April 25, 2001.
9. The school building can be reached by a wheelchair ramp, curb cut, and handicapped parking area. Although the main doors to the building can accommodate a wheelchair, there are no automatic door openers. When the Student enters the building through the front doors, school staff meet the Student at the door to provide assistance.

#### **CONCLUSIONS:**

1. Findings of Fact #2, #3, #4, #5, #6, and #7 indicate that sixty instructional days from the date of parental consent elapsed on April 18, 2001 and that the first date for the CCC meeting suggested by the School was April 19, 2001. Although the Complainant has agreed to various dates for the CCC to convene, the Complainant has subsequently canceled those meetings. Because the first date for the CCC was beyond the sixty instructional day timeline, a violation of 511 IAC 7-25-7 has occurred.
2. Finding of Fact #8 reflects that the parent made multiple requests for copies of the Student's daily log, beginning in early April 2001. The records were made available to the Complainant before the end of April and within 45 days of her initial request. Therefore, no violation of 511 IAC 7-23-1(d) and (f) occurred.
3. Finding of Fact #9 indicates that, because there are no automatic door openers at the main entrance to the school building, the Student requires personal assistance in order to enter the building. Due to the lack of automatic door openers, any individual, including the Student, who is unable to open the door independently, cannot enter the building unless someone is there to assist. Although the accommodation made for the Student is an interim measure, it is insufficient as a permanent means of satisfying the requirements of 28 CFR 35.150(a). Therefore, a violation is

found.

**The Department of Education, Division of Special Education requires corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

The New Castle Community School Corporation and the New Castle Area Programs shall:

1. convene the CCC meeting to review the augmentative communication evaluation at a mutually agreed upon date and time, but no later than June 8, 2001. If the parent or other participants are unable to participate in person, the School shall make arrangements for participation by other methods such as a conference call. **A copy of the CCC Report/IEP shall be submitted to the Division no later than June 15, 2001.**
2. make the front entrance to the school building accessible so that personal assistance is not required for individuals who are unable to open the door independently. **The school shall submit documentation that this has occurred no later than September 4, 2001.**

DATE REPORT COMPLETED: May 25, 2001